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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/743,484

12/22/2003

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037607-0177

7775

34099 7590 01/16/2009
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EXAMINER

HAMMOND III, THOMAS M

ART UNIT

PAPER NUMBER

3695

MAIL DATE

DELIVERY MODE

01/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/743,484	Applicant(s) WILLIAMS ET AL.	
	Examiner THOMAS M. HAMMOND III	Art Unit 3695	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Status of Claims

1. This action is in reply to the Applicant's response filed on 22 October 2008.
2. Claim 3 has been cancelled.
3. Claims 1, 8, 9 and 15 have been amended.
4. Claims 1, 2, and 4-25 are currently pending and have been examined.

Response to Arguments

5. 101 Rejections

6. With regard to claims 8-14, the Applicant has amended the claims to feature a “processing unit” and argues that such addition is sufficient to disclose the physical components of the system. While the Examiner appreciates the Applicant’s attempt to overcome the current rejections, the Examiner asserts that such additional limitation does not disclose the necessary physical components of the system. Generally speaking, units, modules, code, and the like can encompass computer software unless explicitly defined in the specification. The Applicant has not provided such explicit disclosure of the processing unit so as to overcome the current rejections. Accordingly, claims 8-14 remain rejected.

7. Prior Art Rejections

8. The Applicant's arguments are considered moot, in view of the new grounds of rejection, necessitated by the Applicant's substantial amendments to the claimed invention and further review of the prior art submitted by the Applicant.

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Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claims 8-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

11. With regard to claims 8-14, the Applicant recites a system for valuing a mortgage loan for sale, however, without limitations as to the physical components of the system. The Examiner asserts that the limitations of a “processing unit”, “user interface” and a “pricing engine” are interpreted as computer software, per se. Under the current guidelines of 35 U.S.C. 101, computer code per se, it not eligible for patentability.

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Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claim1, 2, and 4-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Fannie Mae, "Secondary Marketing: Cash", 1997.

As per claim 1

Fannie Mae teaches:

- Retrieving information regarding the individual mortgage loan using the identifier, the information including the gross interest rate and a product type (see at least pages 39-50)
- Retrieving a required yield associated with the product type (see at least pages 39-50)
- Determining adjustments to the required yield based on at least one of (1) a credit risk associated with the borrower, (2) a loan-to-value ratio, and (3) loan purpose (see at least pages 39-50)
- Determining an interest rate portfolio yield based on at least the gross interest rate and the adjustments (see at least pages 39-50)
- Determining a yield difference based on at least the required yield and the interest rate portfolio yield (see at least pages 39-50)
- Retrieving a trade-off ratio (see at least pages 39-50)
- Determining a price difference based at least one the yield difference and the trade-off ratio (see at least pages 39-50)
- Determining a price for sale of the individual mortgage loan to a secondary mortgage market purchaser based at least on the price difference (see at least pages 39-50)

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As per claims 2 and 4-7

Fannie Mae teaches the method of claim 1, as described above.

Fannie Mae further teaches:

- Wherein the required yield is retrieved from a current yield/trade-off schedule (see at least pages 39-50)
- Wherein determining the interest rate portfolio yield includes calculating a difference between the gross interest rate and the adjustments (see at least pages 39-50)
- Wherein determining the yield difference includes calculating a difference between the required yield and the interest rate portfolio yield (see at least pages 39-50)
- Wherein the trade-off ratio reflects what is paid in price for one basis-point in yield (see at least pages 39-50)
- Wherein determining the price difference includes multiplying the yield difference and the trade-off ratio (see at least pages 39-50)

As per claims 8-21

Claims 8-21 are interpreted to encompass substantially the same scope as claims 1-7. Accordingly, claims 8-21 are rejected in substantially the same manner as claims 1-7.

As per claim 22

Fannie Mae teaches the method of claim 1, as described above.

Fannie Mae further teaches:

- Wherein the individual mortgage loan is selected from a plurality of approved mortgage loan products identified by an underwriting engine associated with the online mortgage loan system (see at least pages 39-50)

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As per claim 23

Fannie Mae teaches the method of claim 22, as described above.

Fannie Mae further teaches:

- Wherein the underwriting engine generates underwriting recommendations based at least in part on pre-selected underwriting guidelines of a secondary mortgage market purchaser (see at least pages 39-50)

As per claims 24-25

Claims 24-25 are interpreted to encompass substantially the same scope as claims 22-23. Accordingly, claims 24-25 are rejected in substantially the same manner as claims 22-23.

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Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Hammond III whose telephone number is 571-270-1829. The examiner can normally be reached on Monday - Friday, 7AM - 5PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Kyle can be reached on 571-272-6746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thomas M Hammond III
Patent Examiner, Art Unit 3695
US Patent & Trademark Office
14 January 2009

/Thu Thao Havan/

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Primary Examiner, Art Unit 3695